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Via Certified Mail –
Return Receipt Requested

July 8, 2019

Sage Sangiacomo - City Manager
Members of the City Council
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Tim Eriksen - Director
Department of Public Works
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Alan Hodge - Interim Supervisor
Ukiah Wastewater Treatment Plant
300 Plant Road
Ukiah, CA 95482

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act (Clean Water Act)

Dear Mr. Sangiacomo, Mr. Eriksen, Mr. Hodge, and Members of the City Council:

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch ("CRW") in regard to violations of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1251 *et seq.*, that CRW alleges are occurring through the ownership and/or operation of the City of Ukiah Wastewater Treatment Plant and its associated sewer collection system.

CRW hereby places the City of Ukiah ("City") as owner and operator of the Ukiah Wastewater Treatment Plant, a publically owned treatment works, ("the Facility") and associated collection system on notice, that following the expiration of sixty (60) days from the date of this Notice, CRW will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the U.S. District Court against the City for continuing violations of an effluent standard or limitation pursuant

to CWA § 301(a), 33 U.S.C. § 1311(a), and the Regional Water Quality Control Board North Coast Region, Water Quality Control Plan ("Basin Plan"), as the result of violations of the City's National Pollution Discharge Elimination System ("NPDES") Permit.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory provisions. One such exception authorizes a discharger, which has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in an NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition, such that violation of a permit limit places a discharger in violation of the CWA. CRW alleges the City is in violation of the CWA by violating the terms of its NPDES permit.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (*see* 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the City's operations in the region at issue in this Notice is the Regional Water Quality Control Board, North Coast Region ("RWQCB-North Coast").

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute (*see* CWA § 505, 33 U.S.C. § 1365). CRW is exercising such citizen enforcement to enforce compliance by the City with the CWA.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. The Specified Standard, Limitation, or Order Alleged to Have Been Violated

CRW contends the order being violated by the City is RWQCB-North Coast Order No. R1-2018-0035, NPDES No. CA0022888, WDID NO. 1B84029OMEN *Waste Discharge Requirements and Water Recycling Requirements for the City of Ukiah Wastewater Treatment Plant Mendocino County* ("NPDES Permit") amended from Order No. R1-2012-0068. CRW has identified specific violations of the City's NPDES Permit including discharges of raw sewage and a failure to either comply with or provide evidence of compliance with all the terms of the City's NPDES Permit.

2. The Activity Alleged to Constitute a Violation

CRW contends that from July 1, 2014 to July 1, 2019, the City has violated the Act as described in this Notice. CRW contends these violations are continuing or have a likelihood of occurring in the future.

A. Sanitary Sewer Overflows, Inadequate Reporting, and Failure to Mitigate Impacts

i. Sanitary Sewer Overflow Occurrences

Sanitary Sewer Overflows ("SSOs"), in which untreated sewage is discharged above ground from the collection system prior to reaching the Facility, are alleged to have occurred both on the dates identified in California Integrated Water Quality System ("CIWQS") Interactive Public SSO Reports, and on the dates when no reports were filed by the City, all in violation of the CWA.

The City's aging sewer collection system has historically experienced high inflow and infiltration ("I/I") during wet weather. Structural defects which allow I/I into the sewer lines result in a buildup of pressure causing SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals, and storm drains which are connected to adjacent surface waters including the Russian River – a water of the United States.

A review of the CIWQS Spill Public Report – Summary Page identifies the "Total Number of SSO locations" as 33, with 5,147 "Total Vol. of SSOs (gal)" discharged into the environment. Of this total volume, the City admits at least 1,688 gallons, or 32% of the total, reached a surface water. These discharges pose both a nuisance pursuant to Calif. Water Code § 13050(m) and an imminent and substantial endangerment to health and the environment.

CRW has reason to believe the City is not reporting SSO violations as mandated under the NPDES Permit. For example, Oak Manor was completely under water during the recent floods. However, the City did not report any SSOs despite the collection system being inundated.

All of the above-identified discharges are violations of CWA § 301(a), 33 U.S.C. § 1311(a), as discharges of a pollutant (sewage) from a point source (sewer collection system) to a water of the United States without complying with any other sections of the Act. Further, they are alleged to violations of the City's NPDES Permit which states in Section III. Discharge Prohibitions:

> A. The discharge of any waste not disclosed by the Permittee or not within the reasonable contemplation of the Regional Water Board is prohibited.
>
> B. Creation of pollution, contamination, or nuisance, as defined by section 13050 of the Water Code is prohibited. . . .
>
> D. The discharge or recycling use of untreated or partially treated waste (receiving a lower level of treatment than described in section II.A of the Fact Sheet) from anywhere within the collection, treatment, or disposal systems

is prohibited, except as provided for in Attachment D, Standard Provisions G (Bypass) and H (Upset).

E. Any sanitary sewer overflow (SSO) that results in a discharge of untreated or partially treated wastewater to (a) waters of the state or (b) land and creates pollution, contamination, or nuisance, as defined in Water Code section 13050(m) is prohibited.

ii. Inadequate and Incomplete SSO Reporting

Full and complete reporting of SSOs is essential to gauging their impact upon public health and the environment. CRW contends the City has failed to report any SSOs which have more than likely occurred due to the age and condition of the collection system piping and due to storm events. In addition, that the City underestimates the impact of its SSOs and fails to provide information as to any warning signs posted notifying the public about the pollutants in the vicinity of the spill. Due to these reporting failures, which should reveal critical details about each SSO violation, it is impossible to gather information sufficient to accurately assess and ensure these violations would not recur.

In addition, CRW's expert believes many of the SSOs reported by the City as not reaching a surface water did in fact reach surface waters. Further, that a careful reading of the time when the SSO began, the time when the City received notification of the SSO, the time of the City's response, and the time at which the SSO ended, too often appear as unlikely estimations. For example:

May 31, 2016 (Event ID #824943) – the spill start time is reported as 09:00 and agency notification time is reported as 09:10. The operator is reported as arriving five minutes later at 09:15. This 200-gallon spill is reported to have ended just 30 minutes later at 09:45.

May 26, 2016 (Event ID# 824773) – the spill start time is reported as 02:10 and agency notification time 5 minutes later at 02:15. The operator is reported as arriving almost eighteen hours later at 20:00. However, this 69-gallon spill is reported as ending fifteen minutes after it started at 02:25. All 69 gallons are reported as reaching a separate storm drainpipe.

April 05, 2015 (Event ID# 814406) – both the reported spill start time and agency notification time for this spill (caused by Debris-Rags) are reported as 13:50. The operator arrival time is reported as 40 minutes later, at 14:30. The spill end time is reported 30 minutes after that at 15:00. A total of 30 gallons are reported as spilling into a separate storm drain. The explanation of volume estimation used is "estimated based on flow".

Given the unlikely accuracy of the times and intervals provided in these reports, it is difficult to consider the stated volumes as accurate. Without correctly reporting the spill start and end time, there is a danger that the duration and volume of a spill will be underestimated.

iii. Failure to Mitigate Impacts

CRW contends the City fails to adequately mitigate the impacts of its SSOs. The City is a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. The Statewide WDR requires the City to take all feasible steps, and perform necessary remedial actions following the occurrence of an SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site.

A critical remedial measure is the performance of adequate sampling to determine the nature and impact of the release. As the City is failing to report SSOs which reach surface waters, CRW contends the City is not conducting necessary SSO sampling.

The EPA's *"Report to Congress on the Impacts and Control of CSOs and SSOs"* (U.S. Environmental Protection Agency, Office of Water (2004)) identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous biological habitat areas exist within areas of the City's SSOs. Neighboring waterways include sensitive areas for the California Freshwater Shrimp, steelhead trout, coho salmon, Chinook salmon, Chum Salmon, and the Western pond turtle. There is no record of the City performing any analysis of the impact of its SSOs on habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies containing biological habitat from the impacts of SSOs.

B. POTW and Sewer Collection System Discharges Caused by Defects and Improper Use

It is a well-established fact that exfiltration caused by structural defects in a sewer collection system and POTW treatment and percolation ponds result in discharges to adjacent surface waters either directly or via underground hydrological connections. Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.

CRW contends untreated or partially treated sewage is discharged from the City's collection system either directly or via hydrologically connected groundwater to surface waters including the Russian River. Surface waters then become contaminated with pollutants, including human pathogens. Chronic failures in the collection system pose a substantial threat to public health.

Evidence of exfiltration can also be supported by reviewing mass balance data, I/I data, and video inspection as well as testing of waterways adjacent to sewer lines for nutrients, human pathogens and other human markers such as caffeine. Any exfiltration found from the City is a violation of its NPDES Permit and thus the CWA.

The City has violated the CWA due to the discharge of waste from its percolation ponds to the Russian River (or its tributaries) during the period from May 15 through September 30 of each year.

C. Violations of Effluent Limitations

A review of the City's Self-Monitoring Reports ("SMRs") identifies the following violations of effluent limitations imposed under the City's NPDES Permit:

The SMRs identify **15** violations of Order R1-2018-0035, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations - Discharge Point No. 001 and 002, 1. Final Effluent Limitations - Discharge Point 001, Table 4. Effluent Limitations - Discharge Point 001 (Monitoring Location EFF-001B)

(March 01, 2019) "Total Suspended Solids (TSS) Weekly Average limit is 45 mg/L and reported value was 53 mg/L at EFF-002."

(March 01, 2019) "Ammonia, Total (as N) Monthly Average (Mean) limit is 2.5 mg/L and reported value was 4.7 mg/L at EFF-001B."

(February 28, 2019) "Discharger releasing disinfected secondary effluent directly to Russian River. Effluent limitation IV.A.1 requires that effluent discharge meet disinfected tertiary requirements."

(January 17, 2019) "Total Coliform 7-Day Median limit is 23 MPN/100 mL and reported value was 33 MPN/100 mL at EFF-002."

December 31, 2018) "Nitrate, Total (as N) Monthly Average limit is 10 mg/L and reported value was 11 mg/L at EFF-001B."

(December 31, 2018) "Copper, Total Monthly Average limit is 21 ug/L and reported value was 29 ug/L at EFF-001B."

(December 10, 2018) "Ammonia, Total (as N) Daily Maximum limit is 5.6 mg/L and reported value was 6.6 mg/L at EFF-001B."

(December 03, 2018) "Ammonia, Total (as N) Daily Maximum limit is 5.6 mg/L and reported value was 6.8 mg/L at EFF-001B.

(November 30, 2018) "Copper, Total Monthly Average (Mean) limit is 21 ug/L and reported value was 53 ug/L at EFF-001B."

(November 30, 2018) "Nitrate, Total (as N) Monthly Average limit is 10 mg/L and reported value was 15.5 mg/L at EFF-001B."

(November 19, 2018) "Ammonia, Total (as N) Daily Maximum limit is 5.6 mg/L and reported value was 6.7 mg/L at EFF-001B."

(November 19, 2018) "Ammonia, Total (as N) Daily Maximum limit is 5.6 mg/L and reported value was 6.7 mg/L at EFF-001B."

(November 06, 2018) "Ammonia, Total (as N) Daily Maximum limit is 5.6 mg/L and reported value was 6.0 mg/L at EFF-001B."
Event ID# 1055492

(November 06, 2018) "Copper, Total Daily Maximum limit is 40 ug/L and reported value was 53 ug/L at EFF-001B."

(July 31, 2018) "Total Suspended Solids (TSS) Monthly Average limit is 30 mg/L and reported value was 31 mg/L at EFF-002."

The SMRs identify numerous violations of Order R1-2012-0035, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations, 1. Final Effluent Limitations, Table 4. Final Effluent Limitations - Discharge Point 001 (Discharge to Russian River). The following violations are provided as an example, arranged by category.

i. Ammonia

(May 31, 2018) "Ammonia, Total (as N) Monthly Average limit is 3.5 mg/L and reported value was 4.9 mg/L at EFF-001B."

(December 27, 2017) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7.6 mg/L at EFF-001B."

(December 20, 2017) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7.2 mg/L at EFF-001B."

(November 30, 2017) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 6.1 mg/L at EFF-001B."

(November 30, 2017) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 6.85 mg/L at EFF-001B."

(November 07, 2017) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 9.7 mg/L at EFF-001B."

(October 31, 2017) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 8.1 mg/L at EFF-001B."

(October 31, 2017) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 7.95 mg/L at EFF-001B."

(October 24, 2017) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7.8 mg/L at EFF-001B."

(June 30, 2017) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 12 mg/L at EFF-001B."

(April 30, 2017) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 4.6 mg/L at EFF-001B."

(April 04, 2017) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7.0 mg/L at EFF-001B."

(March 31, 2017) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 5.5 mg/L at EFF-001B."

(January 03, 2017) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7.2 mg/L at EFF-001B."

(January 03, 2017) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7.2 mg/L at EFF-001B."

(December 31, 2016) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 6.1 mg/L at EFF-001B."

(December 05, 2016) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 10 mg/L at EFF-001B."

(November 30, 2016) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 6.3 mg/L at EFF-001B."

(November 15, 2016) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7.7 mg/L at EFF-001B."

(November 08, 2016) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 8.5 mg/L at EFF-001B."

(October 31, 2016) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 9.4 mg/L at EFF-001B."

(October 25, 2016) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 9.5 mg/L at EFF-001B."

(October 18, 2016) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7.6 mg/L at EFF-001B."

(October 11, 2016) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 11 mg/L at EFF-001B."

(October 05, 2016) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 9.3 mg/L at EFF-001B."

(December 31, 2015) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 7.4 mg/L at EFF-001A."

(December 31, 2015) "Ammonia, Total (as N) Monthly Average limit 3.5 ug/L and reported value was 7.4 ug/L at EFF-001B."

(December 15, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 8.1 mg/L at EFF-001A."

(December 15, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 8.1 mg/L at EFF-001B."

(December 08, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 11 mg/L at EFF-001B."

(December 08, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 9.1 mg/L at EFF-001A."

(December 06, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 10 mg/L at EFF-001B."

(December 01, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 11 mg/L at EFF-001A."

(December 01, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 11 mg/L at EFF-001B."

(December 01, 2015) "Ammonia, Total (as N) Maximum Daily (MDEL) limit is 6.8 mg/L and reported value was 11 mg/L at EFF-001B."

(November 30, 2015) "Ammonia, Total (as N) Monthly Average limit 3.5 mg/L and reported value was 5.1 mg/L at EFF-001B."

(November 24, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 8.1 mg/L at EFF-001B."

(November 17, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 10 mg/L at EFF-001B."

(November 10, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 9.5 mg/L at EFF-001B."

(November 03, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 10 mg/L at EFF-001B."

(October 31, 2015) "Ammonia, Total (as N) Monthly Average (Mean) limit is 3.5 mg/L and reported value was 7.5 mg/L at EFF-001B."

(October 27, 2015) "Ammonia, Total (as N) Maximum Daily (MDEL) limit is 6.8 mg/L and reported value was 7.9 mg/L at EFF-001B."

(October 07, 2015) "Ammonia, Total (as N) Maximum Daily (MDEL) limit is 6.8 mg/L and reported value was 11 mg/L at EFF-001B."

(May 31, 2015) "Ammonia, Total (as N) Monthly Average limit is 3.5 mg/L and reported value was 4.4 mg/L at EFF-001B."

(March 27, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 11 mg/L at EFF-001B."

(February 28, 2015) "Ammonia, Total (as N) Monthly Average limit is 3.5 mg/L and reported value was 4.63 mg/L at EFF-001B."

(February 03, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 12 mg/L at EFF-001B."

(January 31, 2015) "Ammonia, Total (as N) Monthly Average limit is 3.5 mg/L and reported value was 5.69 mg/L at EFF-001B."

(January 27, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 11 mg/L at EFF-001B."

(January 20, 2015) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 7 mg/L at EFF-001B."

(November 30, 2014) "Ammonia, Total (as N) Monthly Average limit is 3.5 mg/L and reported value was 6.55 mg/L at EFF-001B."

(November 11, 2014) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 9 mg/L at EFF-001B."

(November 04, 2014) "Ammonia, Total (as N) Daily Maximum limit is 6.8 mg/L and reported value was 8.6 mg/L at EFF-001B."

ii. Nitrate

(October 16, 2018) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 15.4 mg/L at EFF-001B."

(November 30, 2017) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 12 mg/L."

(May 31, 2016) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 15 mg/L at EFF-001B."

(April 30, 2016) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 11.3 mg/L at EFF-001B."

(October 31, 2015) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 12 mg/L at EFF-001B."

(May 31, 2015) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 15 mg/L at EFF-001B."

(April 30, 2015) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 14 mg/L at EFF-001B."
" *** MMP Exempt Reason: Duplicate effluent violation w/CIWQS ID#991553."

(April 30, 2015) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 14 mg/L at EFF-001B."

(April 07, 2015) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 14 mg/L at EFF-001B."
" *** MMP Exempt Reason: Duplicate effluent violation w/CIWQS ID#991553."

(March 31, 2015) "Nitrate, Total (as N) Monthly Average (Mean) limit is 10 mg/L and reported value was 16 mg/L at EFF-001B."

(November 30, 2014) "Nitrate, Total (as N) Monthly Average limit is 10 mg/L and reported value was 13.5 mg/L at EFF-001B."

iii. Copper and Chlorine

(October 16, 2018) "Copper, Total Recoverable Monthly Average (Mean) limit is 35 ug/L and reported value was 62 ug/L at EFF-001B."

(October 07, 2015) "Copper, Total Recoverable Monthly Average (Mean) limit is 35 ug/L and reported value was 41 ug/L at EFF-001B."

(February 16, 2018) "Chlorine, Total Residual Daily Discharge limit is 0.0 mg/L and reported value was 0.72 mg/L at EFF-001B."

iv. Cyanide

(February 13, 2018) "Cyanide, Total (as CN) Monthly Average (Mean) limit is 4.3 ug/L and reported value was 5.0 ug/L at EFF-001B."

(November 30, 2017) "Cyanide, Total (as CN) Monthly Average (Mean) limit is 4.3 ug/L and reported value was 5.8 ug/L at EFF-001B."

v. Dichlorobromomethane

(May 03, 2016) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 9.93 ug/L at EFF-001B."

(May 03, 2016) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 9.93 ug/L at EFF-001B."

(April 06, 2016) "Dichlorobromomethane Monthly Average limit is 0.56 ug/L and reported value was 1.1 ug/L at EFF-001B."

(April 04, 2016) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 1.1 ug/L at EFF-001B."

(March 01, 2016) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 2.45 ug/L at EFF-001B."

(March 01, 2016) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 1.1 ug/L at EFF-001A."

(March 01, 2016) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 2.45 ug/L at EFF-001B."

(February 02, 2016) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 2.2 ug/L at EFF-001B."

(February 02, 2016) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 2.2 ug/L at EFF-001B."

(February 02, 2016) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 2.2 ug/L at EFF-001B."

(October 07, 2015) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 2.09 ug/L at EFF-001B."

(October 07, 2015) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 2.09 ug/L at EFF-001B."

(October 07, 2015) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 2.09 ug/L at EFF-001B."

(October 07, 2015) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 2.09 ug/L at EFF-001B."

(May 05, 2015) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 1.81 ug/L at EFF-001B."

(May 05, 2015) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 1.81 ug/L at EFF-001B."

(April 07, 2015) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 1.19 ug/L at EFF-001B."

(April 07, 2015) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 1.19 ug/L at EFF-001B."

(March 31, 2015) "Dichlorobromomethane Monthly Average (Mean) limit is 0.56 ug/L and reported value was 1.34 ug/L at EFF-001B."

(March 18, 2015) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 9.61 ug/L at EFF-001B."

(March 03, 2015) "Dichlorobromomethane Daily Maximum limit is 1.1 ug/L and reported value was 1.77 ug/L at EFF-001B."

vi. Total Coliform

(June 26, 2017) "Total Coliform 7-Day Median limit is 23 MPN/100mL and reported value was 33 MPN/100mL at EFF-002."

(June 19, 2017) "Total Coliform 7-Day Median limit is 23 MPN/100mL and reported value was 79 MPN/100mL at EFF-002."

(June 12, 2017) "Total Coliform 7-Day Median limit is 23 MPN/100mL and reported value was 34 MPN/100mL at EFF-002."

(March 23, 2015) "Total Coliform Monthly Maximum limit is 240 MPN/100mL and reported value was 240 MPN/100mL at EFF-002."

D. Violations of Deficient Monitoring

A review of the City's Self-Monitoring Reports ("SMRs") identifies the following violations with respect to monitoring imposed under the City's NPDES Permit:

The SMRs identify **2** violations of Order No. R1-2018-0035, Attachment E – Monitoring and Reporting Program (MRP), IV. Effluent Monitoring Requirements:

(January 24, 2019) "Total residual chlorine was not recorded on this occasion."

(November 30, 2018) "There was no samples collected during November 2018 for TDS & Conductivity from RSW-003, 004, 006 Russian River sample sites. These sites are not available in the listing."

The SMRs identify **8** violations of Order R1-2012-0068, Attachment E - Monitoring and Reporting Program (MRP), IV. Effluent Monitoring Requirements:

(May 11, 2018) "On May 11, 2018 the 002 Effl. daily sample was not collected for pH."

(May 11, 2018) "The daily grab sample from 001B for pH, Temperature & Turbidity was not collected."

(January 09, 2018) "We exceeded the 'No Chlorine' at discharge. During discharge on the 9th the chlorine reached a max concentration of 4.6 mg/L for 18.5 minutes for an approximate volume of 0.022 MG. Trend charts are available to confirm my description.

(November 15, 2017) "Sampling was not collected by Lab Staff."

(April 22, 2016) "Deficient Monitoring"

(April 22, 2016) "Restated discharge late in the day. Sampling overlooked."

(January 20, 2015) "Effluent DO measurement not recorded."

(January 20, 2015) "Effluent DO measurement not recorded."

E. Violations of Order Conditions

The SMRs identify **1** violation of Order R1-2018-0035:

(February 28, 2019) "Percolation ponds have exceeded capacity and effluent was observed seeping from pond berm."

The SMRs identify **2** violations of Order R1-2012-0035:

(January 22, 2018) "We discharged chlorine to the Russian River at a max concentration of 0.8 mg/L for 16 minutes for an approximate volume of 0.025 MG. I have trend charts printed illustrating my description."

(January 04, 2018) "We exceeded the Discharge ratio limit of 01% dilution to the Russian River. The ratio was 1.62%."

F. Violations of "Other Effluent Violations"

The SMRs identify **4** violations of Order R1-2018-0035, IV. Effluent Limitations and Discharge Specifications, D. Other Requirements, 1. Filtration Process Requirements, b. Turbidity.

(December 19, 2018) "Turbidity Other limit is 2 NTU and reported value was 5 NTU at EFF-001B."

(December 07, 2018) "Turbidity Other limit is 2 NTU and reported value was 5 NTU at EFF-001B."

(November 30, 2018) "Turbidity Other limit is 2 NTU and reported value was 5 NTU at EFF-001B."

(November 03, 2018) "Turbidity Other limit is 2 NTU and reported value was 5 NTU at EFF-001B."

G. Impacts to Beneficial Uses

Discharges in excess of effluent limitations, SSOs, and overwhelming already saturated irrigation fields cause prohibited pollution by unreasonably affecting beneficial uses of neighboring waterways.

The Russian River is approximately 110 miles long and flows from its headwaters near Redwood and Potter Valley just north of Ukiah into the Pacific Ocean between Jenner and Goat Rock Beach, approximately 60 miles north of San Francisco's Golden Gate Bridge. With an annual average discharge of approximately 1,600,000 acre feet, the Russian River is the second largest river flowing through the greater San Francisco Bay Area.

The Russian River is a vital resource in Northern California, providing water for residential and agricultural use. The Sonoma County Water Agency draws drinking water from the Russian River for sale to several hundred thousand residents of Sonoma, Mendocino, and northern Marin Counties.

The Russian River Watershed encompasses some 1,500 square miles of forests, agricultural lands, and urban areas within Sonoma and Mendocino Counties. The Watershed provides food and shelter for numerous species of invertebrates, reptiles, amphibians, mammals and birds. Wildlife communities in the Watershed area are an important part of the ecosystem and its health. The Russian River is the largest river in the Central California Coast Steelhead Trout Distinct population segment. It provides wildlife habitat including warm and cold freshwater habitat for fish migration

and spawning and is home to thirty-four species of fish including the endangered Coho Salmon and California Freshwater Shrimp, and threatened Chinook Salmon and Steelhead Trout. Other fish species in the Watershed include Sacramento Suckers, Tule Perch, American Shad, Pikeminnow, Hardhead, Bluegill, Large and Smallmouth Bass, Catfish, Lamprey and Carp. Additional species of concern are the Western pond turtle, western tailed frog, California tiger salamander, and yellow-legged frog.

Water bodies in the Russian River Watershed are listed as impaired under CWA §303(d) due to several pollutants harming water quality. The entire Russian River Watershed is impaired under the CWA for sediment and temperature. Recent data shows a pathogen impairment throughout the Watershed as well. Water quality monitoring from the Russian River and its tributary creeks reflect widespread contamination from bacteria and other indicators of waste which pose a potential threat to the health of the River's ecosystem and the people who visit it.

CRW is understandably concerned as to the effects of exceedances of the City's NPDES Permit limitations to beneficial uses applicable to the Russian River and its tributaries, as well as the impacts of SSOs in and around the diverse and sensitive ecosystem of the Facility and the locations where SSOs from the City's collection system have occurred.

3. The Person or Persons Responsible for the Alleged Violation

The entity responsible for the alleged violations identified in this Notice is the City of Ukiah as owner and operator of the Ukiah Wastewater Treatment Plant and its associated collection system, as well as those of the City's employees responsible for compliance with the CWA and with any applicable state and federal regulations and permits.

4. The Location of the Alleged Violation

The City of Ukiah is the County seat and the largest city in Mendocino County. Just under 120 miles north of San Francisco on Highway 101, it covers an area of 4.7 square miles, 98.89% of it land, and 1.11% of it water. The 2010 United States Census reported the City as having a population of 16,075. The population density was 3,403.7 people per square mile. The City is known for wine and beer production as well as exportation of lumber. Its rich bottomland supports sheep, cattle, and several small farms.

The Facility serves the City and residential areas to the north and south of the City as well as east of the Russian River. The Facility treats wastewater from the City and the Ukiah Valley Sanitation District ("UVSD"). The Facility serves a population of approximately 21,059, including 16,059 within the City and 5,000 in the UVSD. The UVSD also serves Mendocino College, El Dorado Estates, Vichy Springs and areas contiguous to the City. The UVSD owns the collection system in its service area and the City maintains it. The City does not accept wastewater from any collection system not owned or maintained by the City.

The Facility is located in the Ukiah Hydrologic Subarea within the Upper Russian River Hydrologic Unit. During the wet weather season (October 1 – May 14), effluent treated in

accordance with permit requirements in section IV.A of Order No. R1-2018-0035 is discharged from the Facility via an outfall pipe at Discharge Point 001 to the Russian River, a water of the United States, at a point latitude 39° 07' 07" N and longitude 123° 11' 28" W. The rate of discharge is governed by flow conditions in the Russian River monitored near Hopland at U.S. Geological Survey Gauge No. 11462500, and is limited to a rate not to exceed one percent of the flow of the Russian River.

The Facility is designed to treat an average dry weather flow of 3.01 mgd and a peak wet weather flow of 24.5 mgd of secondary treated wastewater, as well as a peak wet weather flow of 7.0 mgd of advanced treated wastewater. The Facility's treatment train consists of an influent wet well, bar screens, aerated grit removal, primary clarifiers, trickling filters, aerated solids contact tank, secondary clarifiers, and a chlorine contactor pipe where secondary disinfection is performed using sodium hypochlorite. This disinfected secondary effluent is discharged to three percolation ponds year-round. The three percolation ponds are located adjacent to the Russian River, with a combined storage capacity of 115 million gallons. Percolation Pond 1 consists of 14.7 acres with a design percolation rate of 50,000 gallons per day (gpd) per acre. Percolation Pond 2 consists of 14.7 acres with a design percolation rate of 80,000 gpd per acre. Percolation Pond 3 consists of 12.4 acres with a design percolation rate of 175,000 gpd per acre. These ponds are maintained to maximize percolation by alternately ripping the bottom of one pond each summer to increase permeability. The bottoms of all ponds slope toward the Russian River.

During the period from October 1 – May 14, treatment continues with the addition of a ferric chloride polymer as the wastewater is sent to multi-media filters, a tertiary chlorine contact basin where disinfection is performed using sodium hypochlorite, and a dechlorination facility where dechlorination is performed using sodium bisulfite. The resulting disinfected, dechlorinated advanced treated wastewater effluent is discharged to the Russian River.

The City's water balance is dependent on having sufficient percolation pond capacity available at the beginning of each rainy season. In addition, the City is limited to discharging up to one percent of the Russian River flow, and has stated that Russian River flows have decreased over the years, perhaps due to lower water releases from Lake Mendocino.

The wastewater collection system in the City and UVSD consists of approximately 67 miles of pipelines 6-inches in diameter or larger. A trunk sewer that ranges in size from 15 to 42 inches in diameter extends northward from the Facility for a distance of 6 miles. The majority of the sewers are gravity collection lines. There are no bypass or overflow structures in the system. Three lift stations from El Dorado Estates, Ford Street, and Vichy Springs discharge to force mains which cross under the Russian River. Each lift station has a bypass pipe around the pumps that allows the system to flow by gravity (via a siphoning effect), and prevent lift station overflows.

Leachate from the City's municipal landfill is discharged to the Facility. Leachate discharges occur primarily during wet weather months. Leachate is clarified in a sedimentation basin at the landfill and subsequently stored in above-ground tanks prior to being pumped to the sewer line. The leachate is analyzed on a quarterly basis for pollutants of concern, including total dissolved solids, nutrients, biochemical oxygen demand (BOD5), volatile organic compounds and petroleum

hydrocarbons. Monitoring results demonstrate the leachate does not contain any pollutants that could cause upset conditions at the Facility. Volumes of leachate discharged to the Facility vary from month to month and may be mixed with rainwater in the winter. The annual volume of leachate discharged from the landfill to the Facility ranged from 0.5 million gallons in 2014 to 2.5 million gallons in 2017.

5. Reasonable Range of Dates During Which the Alleged Activity Occurred

The range of dates covered by this Notice is July 1, 2014 through July 1, 2019. This Notice also includes all violations of the CWA by the City which occur during and after this Notice period up to and including the time of trial.

6. The Full Name, Address, and Telephone Number of the Person Giving Notice

The entity giving notice is California River Watch, referred to throughout this Notice as "CRW," an Internal Revenue Code § 501(c)(3) non-profit, public benefit corporation duly organized under the laws of the State of California. Its headquarters and main office are located in Sebastopol. Its mailing address is 290 South Main Street, #817, Sebastopol, CA 95472. CRW is dedicated to protecting, enhancing, and helping to restore surface waters and groundwaters of California including coastal waters, rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs. CRW may be contacted via email: US@ncriverwatch.org, or through its attorneys. CRW has retained legal counsel with respect to the issues raised in this Notice. All communications should be directed to Attorney Jack Silver.

RECOMMENDED REMEDIAL MEASURES

CRW looks forward to meeting with the City's staff to tailor remedial measures to the specific operation of the Facility and associated sewage collection system. In advance of that conversation, CRW identifies the following set of remedial measures which will advance compliance with the CWA and the Basin Plan, and help economize the time and effort the parties need to resolve their concerns.

1. Determining the specific sewer collection system repairs required, and establishing deadlines for compliance;

2. Requiring implementation of an effective SSO reporting and response program;

3. Establishing a lateral inspection and repair program;

4. Eliminating the use and application of chemical root control;

5. Eliminating the use of percolation ponds adjacent to the Russian River or any of its tributaries.

6. Keeping the Sewer System Management Plant up-to-date and properly certified; and,

7. Promoting staff training and education.

CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of CRW who reside and recreate in the affected community and may use the affected watershed for recreation, swimming, fishing, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource is specifically impaired by the City's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), §1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. §1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to $54,833.00 per day/per violation pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1-19.4. CRW believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a 60-day "notice period" to promote resolution of disputes. CRW encourages the City to contact counsel for CRW within 20 days after receipt of this Notice to initiate a discussion regarding the allegations detailed in this Notice. In the absence of productive discussions to resolve this dispute, CRW will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,

Jack Silver

JS:lhm

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